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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,585	02/19/2004	Herve Marche	034299-567	7714
7590 Robert E. Krebs Thelen Reid & Priest LLP P.O. Box 640640 San Jose, CA 95164-0640		EXAMINER GARCIA, ERNESTO		
		ART UNIT 3679		
		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/783,585

Applicant(s)

MARCHE, HERVE

Examiner

ERNESTO GARCIA

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5, 7-11, 13-15 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-22 is/are allowed.
- 6) ☒ Claim(s) 3, 7-11, 13, 14 and 19 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The indicated allowability of claim 19 is withdrawn in view of Swerer, 1,900,081, and KSR rationale. The rationale is based on the obvious orientation of the assembly since the assembly can be used in the horizontal orientation, versus in the vertical orientation, to yield a predictable result as discussed in the rejection. Furthermore, work in the same field provides for a variation of using the same assembly in other types of doors to obtain the same expectation of success. Rejections based on the reference follow.

Prosecution on the merits of this application is being reopened so that a rejection based on Swerer and the rationale of KSR can be applied.

Claim Rejections - 35 USC § 112

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 13, this claim set forth a double inclusion of the rotation prevention means recited in claim 19. Accordingly, the protrusion is the means for preventing rotation.

Double Patenting

Applicant is advised that should claim 3 be found allowable, claim 14 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Note that claim 3 recites that the load bearing structure is placed between the parallel plates and thus would inherently contain a space between the plates so that the load bearing structure is placed therebetween.

Claim Rejections - 35 USC § 103

Claims 3, 7, 11, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swerer, 1,900,081.

Regarding claim 19, Livingston et al., disclose, in Figure 4, an assembly comprising a load bearing structure **4**, a suspended structure **1**, and a coupling member **9**. The load bearing structure **5** has a first circular member **8**. The first circular member **8** is able to rotate about a horizontally oriented first axis (note that one merely has to place the assembly in a cellar door that is horizontal to ground, versus being placed in

the conventional vertical direction). The first circular member **8** has a first aperture **A1**. The suspended structure **1** has a second circular member **7** is able to rotate about a horizontally oriented second axis . The second circular member **7** has a second aperture **A2**. The coupling member **9** is received in the first aperture **A1** and the second aperture **A2**. The coupling member **9** is oriented along a third axis parallel and adjacent to the first axis and the second axis. The first circular member **8** and the second circular member **7** are unable to rotate with respect one another about the third axis. The first circular member **8** and the second circular member **7** are unable to rotate with respect to one another about the third axis. Rotation prevention means (the hexagonal cross section of the coupling member and the holes being hexagonal) is provided between the coupling member **9** and each of the first and second circular members **8,7**. The rotation prevention means is configured to prevent any relative rotation therebetween. Given that the assembly would have been placed in the horizontal direction either during placing the assembly in a cellar door that is horizontal to ground versus a door that is placed in the conventional vertical direction, the second axis would have been offset vertically upwards from the first axis. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place the assembly of Swerer in the horizontal direction so that a cellar door can be opened vertically while at the same time having the same expectation of success, i.e., to prevent the door from sticking to the jamb, or being away from the jamb that catch members cannot operate, as taught by Swerer.

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Regarding claims 3 and 14, the suspended structure **1** further comprising two plates **6** parallel to each other between which the load bearing structure **4** is placed.

Regarding claim 7, the suspended structure **1** is capable of rotating about at least one of the first axis and the second axis.

Regarding claim 8, the load bearing structure **4** is capable of rotating about at least one of the first axis and the second axis.

Regarding claim 9, the first circular member **8** and the second circular member **7** are not independently moveable (note that they move depedently).

Regarding claim 10, the coupling member **9** is a circular hinge pin **9**.

Regarding claim 11, the first aperture **A1** and the second aperture **A2** are circular.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swerer, 1,900,081, in view of Muller, 3,526,413.

Regarding claim 13, Swerer, as discussed, fails to disclose the circular hinge pin further comprising at least one protrusion extending from an outer surface. Muller

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suggests in column 3, lines 58-63 that the hinge pin, i.e., the bolts 22, are non-rotatable connected with second circular members 21 with a key or nose portion 23 "made in one piece with the eccentric disk 21 or inserted into the same", i.e., meaning the key is inserted into the eccentric disk 21, which inherently places the key in the hinge pin. Therefore, as taught by Muller, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place at least one protrusion extending from an outer surface of the hinge pin of Swerer to provide a non-rotatable connection with the circular members.

Regarding claim 13, Swerer as discussed, fails to disclose the aperture of at least one of the first circular member **8** and the second circular member **7** includes a protrusion extending from an inner surface. Muller teaches, in Figures 2-3, a protrusion **23** extending from a second circular member **10** to make the second circular member non-rotatable with a coupling member **22** (col. 3, lines 58-63). Therefore, as taught by Muller, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the second circular member **15** with a protrusion extending from an inner surface to make the second circular member **15** non-rotatable with the coupling member of Reilly et al.

Allowable Subject Matter

Claims 4 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20-22 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claims 4 and 15 , the prior art of record does not disclose or suggest an assembly comprising two plates of a suspended structure cooperating with a load bearing structure through spherical surfaces (lines 1-3) in combination with a rotation prevention means provided between the coupling member, a first circular member, and a second circular member (claim 19, lines 13-14) wherein the coupling member being oriented along a third axis parallel and adjacent to a first axis of the first circular member and a second axis of the second circular member (claim 19, lines 8-10) and the first axis and the second axis are respectively along a first horizontal axis and a second horizontal axis. The closest prior art, Swerer, 1,900,081, would have taught the first axis and the second axis respectively along first and second vertical axes;

regarding claim 15 , the prior art of record does not disclose or suggest an assembly comprising a first circular member and a second circular member including a

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spherical surface (lines 1-3) in combination with a rotation prevention means provided between the coupling member, a first circular member, and a second circular member (claim 19, lines 13-14) wherein the coupling member being oriented along a third axis parallel and adjacent to a first axis of the first circular member and a second axis of the second circular member (claim 19, lines 8-10) and the first axis and the second axis are respectively along a first horizontal axis and a second horizontal axis. The closest prior art, Swerer, 1,900,081, would have taught the first axis and the second axis respectively along first and second vertical axes;

regarding claim 5, this claim depends from claim 4; and,

regarding claims 20-22 the prior art of record does not disclose or suggest an articulated junction device comprising first parts and a second part having one rotatable degree of freedom that is fixed along a hinge pin axis (lines 10-11) in combination with the first parts cooperating with plates in a suspended structure through spherical surfaces to define a ball-joint connection therebetween (lines 12-13). The closest prior art, Coone, 4,225,264, teaches the ball joint connection in Figure 4; however, there is no motivation, absent applicant's own disclosure, to teach the rotatable degree of freedom fixed along the hinge pin axis since the hinge pin axis requires rotation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-

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7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. G./

Examiner, Art Unit 3679

April 3, 2008

Attachment: one marked-up page of Swerer, 1,900,081

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679

Fig. 2

